

**PLANNING BOARD OF THE CITY OF BANGOR**

**MEETING OF OCTOBER 5, 2004**

**MINUTES**

**Board Members Present:**

**Robert Guerette, Chairman  
Patricia Cummings  
Ryan King  
David Clark  
Hal Wheeler  
Bill Masters  
Nathaniel Rosenblatt  
Jonathan Siegel**

**City Staff Present:**

**Katherine Weber  
David Gould  
James Ring  
John Hamer  
Peter Witham**

**City Councilors Present:**

**Councilor D'Errico**

**News Media Present:**

**Bangor Daily News**

Chairman Guerette called the meeting to order at 7:00 p.m.

**CONSENT AGENDA**

As no one asked to remove any of the items from the Consent Agenda, Chairman Guerette requested a motion. Mr. Wheeler moved to approve the Consent Agenda. Mr. Rosenblatt seconded the motion, and the Board voted unanimously to approve the Consent Agenda. The items approved are as follows:

**Item No. 1:**

**Site Development Plan approval to construct a 10,000-square foot storage building, construct additions totaling 3,600-square feet to the front and rear of the existing building, and expand the parking area at 1468 Hammond Street in a General Commercial and Service District. Dorr's Equipment Company, applicant.**

**Item No. 2:**      **Site Development Plan approval and Site Location of Development Act Modification approval to construct a 7,200-square foot Fuel Truck Containment Building at Bangor International Airport in an Airport Development District. City of Bangor, applicant.**

## **PUBLIC HEARINGS**

**Item No. 3:**      **To amend the Land Development Code by changing ten parcels of land located at 281, 273, 265, 253 Hammond Street, 7, 8, 12, 14, and 16 Union Place, and 251 Union Street from Urban Residence-Two District and Multi-Family and Service District to Contract Urban Service District. Said parcels containing approximately 1.47 acres. David B. Lawler and City of Bangor, applicants. C.O. #04-291.**

Mr. Rosenblatt indicated that his law firm is representing Mr. Lawler, an applicant for the proposed zone change, and that he would need to abstain from voting. Mr. Wheeler moved to excuse Mr. Rosenblatt from voting on this item. Mr. King seconded the motion, and the Board voted 4-0 in favor of the motion to excuse Mr. Rosenblatt from voting on this item. Chairman Guerette noted that in the absence of Mr. Rosenblatt, Associate Member Cummings would vote.

Chairman Guerette explained the public hearing procedure, and opened the Public Hearing. Mr. T.J. Martzial, Housing Programs Manager for the City of Bangor, indicated that he was present to represent the City of Bangor as a co-applicant in the rezoning request. He indicated that he would answer any questions of the Board about the City's participation in the rezoning request.

Mr. Thomas Russell, of Farrell Rosenblatt & Russell indicated that he represented Mr. Lawler in the rezoning application. Attorney Russell indicated that he had represented the applicant in the 1998 rezoning proposal to develop a Rite Aid Pharmacy at this location. That application was recommended for approval by the Planning Board and adopted by the City Council, but later did not go forward. Attorney Russell indicated that the major intent at that time was to restore a portion of the City that was neglected and run down. Since that time, Mr. Lawler has undertaken a restoration effort on his own by acquiring and rehabilitating several buildings in the area.

Mr. Lawler responded to the City's Request For Proposals which sought potential commercial redevelopment concepts. Attorney Russell explained that Mr. Lawler's proposal is a mixed-use proposal, including 5,000-square feet of retail space and 5,000-square feet of residential space. Mr. Lawler was designated the tentative development

for the property by the City Council. Attorney Russell then discussed the proposed contract conditions and explained that they are specifically intended not to include any land use standards but to use setback standards to limit specific uses such as drive-in businesses, gasoline service or sale of alcohol. Mr. Russell distributed a concept plan to the Board and reviewed various elements of the plan. Mr. Russell said that the Comprehensive Plan is not cast in concrete and that details are subject to judgement. Attorney Russell also indicated that 100 percent consistency with the Comprehensive Plan is not the goal of the process, and indicated that he felt that the existing Urban Residential-Two District is not 100 percent compatible.

Mr. Russell said that this site is at the intersection of two major arterial streets. The High Density Residential District allows commercial office reuse on arterial streets. The Planning Board ought to review the project in the context of what is proposed and not a narrow interpretation of the Comprehensive Plan. The existing building is a nonconforming structure built in the 1930's. As many people know, nonconforming structures do not tend to go away. Any potential negative impacts of the Urban Service District are mitigated by the proposed contract conditions. The proposal for redevelopment will be consistent with other commercial development along Hammond and Union Streets.

Chairman Guerette asked if specific tenants and uses were planned for the building. Mr. Lawler indicated that the retail space was intended for his business Dave's Movie Center. The new building would be a masonry structure and the site driveways would be consolidated. Mr. Lawler said that he felt that it is not likely that this location would be developed for housing.

Assistant City Solicitor Hamer indicated that the Board should keep in mind that the details of the proposed rezoning are at issue and not any specific plans that Mr. Lawler may have.

Mr. King asked where the division was between the City-owned land and that owned by Mr. Lawler, and what was the City's involvement in these properties has been. Mr. Martzial explained that the Community Development Office became involved after the Rite Aid project failed to materialize. Utilizing Community Development Block Grant funds, the City acquired the properties, relocated the tenants, and demolished the buildings. The City has spent about \$665,000 in the project to date. The City removed approximately 16 blighted units from the project area with the anticipation of constructing 8 to 10 new units, thereby, reducing the overall density on the property. Mr. King asked if the new proposal for commercial development is acceptable. Mr. Martzial indicated that it was a mixed-use project that does have a residential component.

Chairman Guerette asked for any other proponents. Mr. Rob Lorimer of 311 Hammond Street indicated that he was familiar with Mr. Lawler's work, and found it to

be outstanding. He indicated that he would much rather see quality commercial development than poor residential development at this location.

Chairman Guerette asked for any opponents. Being none, he asked for Staff comments. Planning Officer Weber outlined the location of the project on an aerial photo. Ms. Weber pointed out that the project was indicated on the City's Land Use Concepts Map as High Density Residential and on the Zoning Policy Map as Multi-Family and Service District zoning. Ms. Weber noted that it was a mixed-use neighborhood, and that Mr. Lawler had done a very good job reusing and renovating several of the buildings in this area. Ms. Weber indicated that the City's land use policy and Union Place Neighborhood Conservation Plan does not accommodate Urban Service District zoning. Ms. Weber noted that there are opportunities available in the Multi-family and Service District for uses other than residential. However, due to the inconsistency with the Comprehensive Plan, Staff could not support the requested rezoning.

Chairman Guerette asked why some of the existing commercial zoning districts are not represented in the Comprehensive Plan. Ms. Weber confirmed that some of the adjacent properties are zoned Urban Service District.

Mr. Wheeler indicated that he agreed with Mr. Russell's interpretation of land use development. He was somewhat surprised at the Staff recommendation, and indicated that he had several rhetorical questions concerning the Staff position. There seems to be a real threat to the neighborhood in this proposal. Commercial development is not likely to march up Union or Hammond Street past even Hudson Street. Does the Staff feel some other redevelopment proposal is going to appear at this location. Through the efforts of the City and Mr. Lawler, a disgraceful situation has been improved greatly. Mr. Lawler has a solid track record and there appears to be no neighboring opposition to the rezoning. While the City has encouraged mixed-uses Downtown why wouldn't the City also encourage mixed-use here. Mr. Wheeler said that he felt that the Board should offer the potential that good projects should be encouraged in spite of the limitations of the Comprehensive Plan.

Mr. Clark indicated that he at one time rented a unit in the Union Place redevelopment area, so he had some familiarity with the area. He indicated that he did not see any specific concerns with the rezoning, although he may have questions when it returns under site plan review. Mr. King asked why they were proposing to rezone the other buildings if their use was not going to change. Attorney Russell indicated that the entire site will utilize a common parking and open space concept, so it is easier if all lots are in the same development district. Mr. King noted that the present issue is the zoning, and not the development plan. Mr. Russell indicated that that was correct. The present plan is a concept plan, and that it may change. He noted that any development of the City property needs to be approved by the City Council.

Mr. Masters indicated that he was very appreciative of Mr. Lawler's work, and commercial creep is not likely in this area. He thought that Mr. Lawler's project would only improve the neighborhood.

Chairman Guerette closed the Public Hearing, and called for a motion on the rezoning proposal. Mr. Wheeler moved to recommend to the City Council adoption of the proposed rezoning for the City of Bangor and David B. Lawler from URD-2 and M&SD to USD Contract contained in C.O. #04-291. Mr. Clark seconded the motion and the Board voted unanimously to recommend adoption of the contract zone change for City of Bangor and David B. Lawler contained in C.O.# 04-291.

### **APPROVAL OF MINUTES**

Chairman Guerette moved the Minutes to the next meeting.

### **NEW BUSINESS**

**Item No. 5:      Final Subdivision Plan approval to create a 28-lot subdivision at 606 Essex Street in a Low Density Residential District. Land Investments, Inc., applicant.**

Mr. Vinal Applebee of Ames A/E indicated that he represented Land Investment Inc. He stated that the applicant was requesting Final Subdivision Plan approval for Libby View Estates. The plan had received Preliminary Plan approval with four conditions, namely: (1) The applicant demonstrate right title and interest on two parcels from the State of Maine and the City of Bangor. Mr. Applebee indicated that a deed was provided by the State of Maine. A deed is being prepared by the City but the applicant still has to finalize the transaction, which is likely to happen pending approval. (2) No access should be allowed to Essex Street. The Final Plan has been annotated to note no vehicular access should be to Essex Street. (3) The various ownership interests of Land Investment Inc. should be clearly depicted on the final plan. Mr. Applebee noted that a revised Final Plan has been created to better depict the parcels within the subdivision and those owned by Land Investment Inc. (4) The Bangor Police Department review the traffic control features on the streets adjacent to the proposed subdivision. Mr. Applebee noted that Lt. Ron Gastia of the Bangor Police Department provided a written report based on observations in the field, and found that the proposed subdivision would not cause any adverse impacts on any of the intersections, or warrant any new traffic control devices.

Mr. Clark asked if Mr. Applebee could describe the pedestrian paths proposed, and describe who would maintain them. Mr. Applebee indicated that the paths were to be vegetated green ways. He indicated that he did not anticipate that there would be winter maintenance or snow clearing, but that the paths could be used for snow shoeing or cross-country skiers. Mr. King asked what the proposed construction

schedule was. Mr. Applebee indicated that the applicant plans to start construction in the spring of 2005.

Mr. Rosenblatt asked Mr. Ring if it was warranted to provide additional traffic controls at East Broadway and Bill Street. Mr. Ring indicated that a three-way stop may not be a good idea given the through traffic which occurs. With the new trips generated by the subdivision, it may well be warranted to have a stop sign on East Broadway. The City can undertake such an improvement administratively. Mr. Masters asked Mr. Ring if he was familiar with the sidewalk on the interstate overpass. Mr. Masters recollection was that it is very narrow, only 2-1/2 feet wide. Mr. Ring indicated that he did not recall the specific details of that bridge, but that there are some options that can be explored.

Mr. Bartelme asked if the details of the pedestrian path could be explained. Mr. Applebee explained that the path would be a grass pathway about four feet wide. A drainage swale is proposed along the edge to intercept storm water, and a fence will separate the path from the adjacent properties.

Mr. Rosenblatt moved to approve the Final Subdivision Plan of Libby View Estates with two conditions: (1) The applicant include \$5,000 in their cost estimate to widen East Broadway and (2) that an acceptable improvement guarantee and required easements be provided in a form acceptable to the City Solicitor within 120 days of approval. Mr. Wheeler seconded the motion, and the Board voted 4 to 1 to approve the Final Plan with aforementioned conditions.

**Item No. 6:      Site Development Plan approval and Site Location of Development Act Modification approval to construct a 14,186-square foot addition to the existing Peabody Hall, reconfigure an existing parking lot, and relocate displaced parking spaces at the Husson College Campus at 1 College Circle in a Government and Institutional Service District. Husson College, applicant.**

Chairman Guerette asked the applicant to provide a brief overview of the project. Mr. Ray Bolduc, PE of WBRC Architects and Engineers, indicated that the applicant was proposing to construct an addition to Peabody Hall. The three-story building is in the center of campus. The building will be utilized for offices, classrooms, conference space, and laboratory spaces. The people utilizing the new space will come from existing buildings on campus. The existing parking will be reconstructed consistent with the City's design standards. The parking lot will include landscaped islands and new lighting. Some of the spaces will be relocated along College Circle so there is no net loss of parking. To balance the impervious areas, an existing softball field will be revegetated.

Chairman Guerette asked for staff comments. Planning Officer Weber indicated that the applicant, Husson College, is requesting Site Development Plan approval and a modification to their Site Location of Development Act license to construct a 14,188-square foot, 3-story, office/classroom expansion to Peabody Hall on College Circle. Ms. Weber stated that Planning and Engineering Staff have reviewed the application. She indicated that Staff finds the application meets the standards for Site Development Permit approval and Site Location of Development Act modification. Ms. Weber recommended approval of both applications in two separate votes.

Mr. Clark moved to approve the Site Development Plan for Husson College to construct an expansion to Peabody Hall. Mr. Rosenblatt seconded the motion, and the Board voted 5 to 0 in favor of the motion to approve the Site Development Plan.

Mr. Clark moved to approve the Site Location of Development Act permit modification for Husson College to construct an expansion to Peabody Hall. Mr. Rosenblatt seconded the motion, and the Board voted 5 to 0 in favor of the motion to approve the Site Location of Development Act Permit modification.

**Item No. 7:      Site Development Plan approval and Site Location of Development Act Modification approval to fill and grade an area located east of the Winkin Stadium at the Husson College Campus at 1 College Circle in a Government and Institutional Service District. Husson College, applicant.**

Chairman Guerette asked the applicant to provide a brief overview of the project. Mr. Ray Bolduc, PE of WBRC Architects and Engineers, indicated that the applicant was proposing to fill and grade 96,000 square feet of area adjacent to Northwoods Apartments. The grades would vary from one to five feet in elevation. It is the applicant's intent to do the filling this fall, and then sod it so it can stabilize over the winter. An underdrain system is proposed for future use, but will be capped until construction of a softball field at a later date. With the drain system capped, storm water runoff will not be altered on the site. Mr. Bolduc indicated that the site was recently rezoned to Government and Institutional Service District.

Mr. Rosenblatt asked if the fill slopes would redirect storm water toward Northwoods Apartments. Mr. Bolduc indicated that to get a flat playing field, a 3:1 slope would be developed at the Northwoods end of the field where the fill is approximately 5 feet. Once the underdrain system is in operation, it should redirect stormwater to the detention pond serving the baseball field. For the time being, the entire area will be seeded, and runoff should not change.

Chairman Guerette asked for staff comments. Planning Officer Weber indicated that the applicant, Husson College, requests approval for a Site Development Plan and a modification to its Site Location of Development Act license to fill and grade at 1 College

Circle in a Government and Institutional Service District (G&ISD). Ms. Weber stated that both Planning and Engineering Staff have reviewed the application. The Staff finds that the application meets the standards for Site Development Permit approval and Site Location of Development Act modification. Ms. Weber recommended approval of both applications in two separate votes.

Mr. Clark moved to approve the Site Development Plan for Husson College to fill and grade at 1 College Circle. Mr. Rosenblatt seconded the motion, and the Board voted 5 to 0 in favor to approve the Site Development Plan.

Mr. Clark moved to approve the Site Location of Development Act Permit modification for Husson College to fill and grade. Mr. Rosenblatt seconded the motion. The Board voted 5 to 0 in favor of the motion to approve the Site Location of Development Act Permit modification.

There being no further business, Mr. Rosenblatt moved to adjourn. Mr. Clark seconded the motion, and the Board voted unanimously to adjourn at 8:43 p.m.